



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

212

CWP-21840-2022 (O&M)
Date of decision: 10.05.2024

Roop Lal

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akash Mehta and Mr. Munish Gupta,
Advocates for the petitioner

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for quashing order dated 19.06.2019 passed by respondent No.1 vide which appeal filed by the petitioner has been rejected on the ground of delay.

2. Learned counsel submits that the petitioner was awarded punishment of stoppage of 2 annual increments with cumulative effect vide order dated 26.06.2006, against which he preferred a statutory appeal, that came to be dismissed on 23.10.2018, Annexure P-5, only on the ground of delay instead of considering it on merits. The same was challenged by him in CWP-10776-2019, Annexure P-6, which, on the statement made by the learned State counsel after instructions from Senior Assistant, that the impugned order be treated as withdrawn with liberty to file afresh, was disposed of as infructuous on 23.05.2019. Consequently, the order dated 19.06.2019, as impugned in the present case, has been passed *albeit*, only on account of delay.

3. Learned State counsel has not been able to defend the order.



4. Heard learned counsel on either side.

5. A gainful reference can be made to the judgment in **Mahadeo Vithoba Nikam vs. Gajanan Pandurang Kulkarni**, (1998) 9 SCC 716, wherein all the orders of the appellate and revisional authority as also the High Court were set aside and the matter was remanded for fresh decision on merits. Hon'ble the Supreme Court, while allowing the appeal, had observed that even though the appellant was not present before the Additional Tehsildar and filed the appeal against the order after a significant delay, it was incumbent upon the Appellate Authority to consider the same on merits, instead of dismissing it solely on the basis of delay.

6. Hon'ble the Supreme Court in **Postmaster General vs. Living Media India Ltd.**, (2012) 3 SCC 563, held that, "Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice..."

7. The order of the Appellate Authority in **Arvind Gupta vs. Assistant Commissioner of Revenue State Taxes** WPA-2904-2023 dated 04.01.2024, rejecting the appeal on the ground of there being no provision under the GST Act for condoning the delay beyond four months, was set aside by the High Court and directed to be decided on merits.

8. It is trite that the cause of justice deserves to be preferred, when pitted against technical considerations. Even though, as a general rule, belated claims should not be entertained, however, the substantive nature of right of filing an appeal warrants that the Appellate Authority consider and decide the same on merits, instead of axing it on the ground of delay alone, since in



matters like the present *lis*, the petitioner would stand to lose rather than gain by delaying filing of an appeal. A pragmatic approach instead of pedantic must therefore be adopted.

9. The availability of a point of view of an authority higher than the one, the order of which was appealed against, shall be assistive for this Court to have a comprehensive overview of the matter.

10. In view of the facts and circumstances, the impugned order dated 19.06.2019 is set aside. The matter is remitted to the Appellate Authority, for rendering a decision on merits, in accordance with law, within a period of six months, after affording a proper opportunity of hearing to the petitioner.

11. The present petition is disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

10.05.2024
M.Kamra

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No